



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/537,933

06/28/2006

Andrew Robert Clark

4607/0578-US0

8660

76808

7590

03/30/2010

Leason Ellis LLP

81 Main Street

Suite 503

White Plains, NY 10601

EXAMINER

FERGUSON, KEITH

ART UNIT

PAPER NUMBER

2618

MAIL DATE

DELIVERY MODE

03/30/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/537,933	<b>Applicant(s)</b> CLARK ET AL.	
	<b>Examiner</b> Keith T. Ferguson	<b>Art Unit</b> 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 31-61 is/are pending in the application.
- 4a) Of the above claim(s) 38-43 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31-37 and 44-61 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Specification*

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph **on a separate sheet** within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 31, 44 and 50 are rejected under 35 U.S.C. 102(b) as being anticipated by Borella et al. (U.S. Patent 6,269,099), newly recited reference.

The claimed invention reads on Borella et al. as follows:

Regarding claim 31, Borella et al. discloses a data communications connection method (fig. 5) for the Transmission Control Protocol (TCP) (col. 6 lines 61-col. 7 lines 66) comprising the steps of: prior to the transmission of a SYN handshake packet to initiate

Art Unit: 2618

a 3-way handshake for a TCP/IP connection, an initiating party computer system (14) sending a connection request message to a receiving party computer system (22) (col. 6 lines 62 through col. 7 line 12); receiving the connection request message at the receiving party computer system (22) (col. 7 lines 18-23); transmitting the SYN handshake packet to initiate a 3-way handshake for a TCP/IP connection from the initiating party computer (14) to the receiving party computer (22)(col. 6 lines 62 through col. 7 line 12); opening (i.e. to start communicating), upon receipt of the connection request message and the handshake packet, a TCP connection at the receiving party computer system for the initiating party computer system (col. 7 lines 18-34); and communicating between the initiating (14) and receiving party computer systems (22) using TCP communication packets (col. 7 lines 32-34).

Regarding claims 44 and 50, Borella et al. discloses a communication connection system (fig. 1) adapted to communicate under the Transmission Control Protocol (TCP) (col. 6 lines 61-col. 7 lines 34), comprising: an initiating device (14) adapted to send a connection request message prior to the transmission of a SYN handshake packet to initiate a 3-way handshake for a TCP/IP connection and the subsequent transmission of the SYN handshake packet for the TCP/IP connection (col. 6 lines 62 through col. 7 line 12); and a receiving device (22) adapted to receive the connection request message and subsequent SYN handshake packet (col. 7 lines 18-28), open (i.e. to start communicating) the TCP connection at the receiving device for the initiating device (col. 7 lines 18-34), upon receipt of the connection request message and the

Art Unit: 2618

subsequent SYN handshake packet, and communicate with the initiating device using TCP communication packets (col. 7 lines 32-34).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 31-35,44-47,50-53 and 56-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pettay et al. (PGPUB-No: 2003/0014544) in view of Borella et al. (U.S. Patent 6,269,099), newly recited reference.

Regarding claims 31,33, 56 and 58, Pettay discloses a data communications connection method (abstract) for the Transmission Control Protocol (TCP) (abstract, P:0058 and P:0068-P:0069) comprising the steps of: prior to the establishment of a TCP/IP connection an initiating (client/server) (party computer system) sending a connection request message to a destination client/server (receiving party computer system) ( paragraphs 0058). Pettay et al. differs from claim 31 of the present invention in that it does not disclose prior to the transmission of a SYN handshake packet to initiate a 3-way handshake for a TCP/IP connection, an initiating party computer system sending a connection request message to a receiving party computer system; receiving

Art Unit: 2618

the connection request message at the receiving party computer system; transmitting the SYN handshake packet to initiate a 3-way handshake for a TCP/IP connection from the initiating party computer to the receiving party computer; opening, upon receipt of the connection request message and the handshake packet, a TCP connection at the receiving party computer system for the initiating party computer system; and communicating between the initiating and receiving party computer systems using TCP communication packets. Borella et al. teaches a data communications connection method (fig. 5) for the Transmission Control Protocol (TCP) (col. 6 lines 61-col. 7 lines 66) comprising the steps of: prior to the transmission of a SYN handshake packet to initiate a 3-way handshake for a TCP/IP connection, an initiating party computer system (14) sending a connection request message to a receiving party computer system (22) (col. 6 lines 62 through col. 7 line 12); receiving the connection request message at the receiving party computer system (22) (col. 7 lines 18-23); transmitting the SYN handshake packet to initiate a 3-way handshake for a TCP/IP connection from the initiating party computer (14) to the receiving party computer (22)(col. 6 lines 62 through col. 7 line 12); opening (i.e. to start communicating), upon receipt of the connection request message and the handshake packet, a TCP connection at the receiving party computer system for the initiating party computer system (col. 7 lines 18-34); and communicating between the initiating (14) and receiving party computer systems (22) using TCP communication packets (col. 7 lines 32-34). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pettey with prior to the transmission of a SYN handshake packet to initiate a 3-way

Art Unit: 2618

handshake for a TCP/IP connection, an initiating party computer system sending a connection request message to a receiving party computer system; receiving the connection request message at the receiving party computer system; transmitting the SYN handshake packet to initiate a 3-way handshake for a TCP/IP connection from the initiating party computer to the receiving party computer; opening, upon receipt of the connection request message and the handshake packet, a TCP connection at the receiving party computer system for the initiating party computer system; and communicating between the initiating and receiving party computer systems using TCP communication packets in order for the client/server to offload TCP/IP related processing with the peer network destination/server across the internet for acceleration TCP/IP connection between clients, as taught by Borella et al..

Regarding claim 32, Pettey further teaches a data communications connection method according to claim 31, wherein the connection request message includes data on the connection requested (paragraphs 69, 107, see figure 3 and 8).

Regarding claim 34, Pettey further teaches a data communications connection method according to claim 31, further comprising: evaluating the connection request message at the receiving party computer system prior to opening a TCP connection (paragraphs 121,123, see figures 12 and 13).

Regarding claim 35, Pettey further teaches a data communications connection method according to claim 34, wherein evaluating the connection request message includes authenticating data within the connection request message (paragraph 107, 123, see figure 12).

Regarding claim 44,45,50,51,57,60 and 61, Pettey discloses a communication connection system to communicate under Transmission Control Protocol (TCP) (fig. 1, abstract, P:0058 and P:0068-P:0069) comprising the steps of: prior to the establishment of a TCP/IP connection an initiating (client/server) (party computer system) sending a connection request message to a destination client/server (receiving party computer system) ( paragraphs 0058). Pettey et al. differs from claims 44 and 50 of the present invention in that it does not disclose prior to the transmission of a SYN handshake packet to initiate a 3-way handshake for aTCP/IP connection, an initiating party computer system sending a connection request message to a receiving party computer system; receiving the connection request message at the receiving party computer system; transmitting the SYN handshake packet to initiate a 3-way handshake for a TCP/IP connection from the initiating party computer to the receiving party computer; opening, upon receipt of the connection request message and the handshake packet, a TCP connection at the receiving party computer system for the initiating party computer system; and communicating between the initiating and receiving party computer systems using TCP communication packets. Borella et al.



Art Unit: 2618

teaches prior to the transmission of a SYN handshake packet to initiate a 3-way handshake for a TCP/IP connection, an initiating party computer system (14) sending a connection request message to a receiving party computer system (22) (col. 6 lines 62 through col. 7 line 12); receiving the connection request message at the receiving party computer system (22) (col. 7 lines 18-23); transmitting the SYN handshake packet to initiate a 3-way handshake for a TCP/IP connection from the initiating party computer (14) to the receiving party computer (22)(col. 6 lines 62 through col. 7 line 12); opening (i.e. to start communicating), upon receipt of the connection request message and the handshake packet, a TCP connection at the receiving party computer system for the initiating party computer system (col. 7 lines 18-34); and communicating between the initiating (14) and receiving party computer systems (22) using TCP communication packets (col. 7 lines 32-34). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Pettey with prior to the transmission of a SYN handshake packet to initiate a 3-way handshake for a TCP/IP connection, an initiating party computer system sending a connection request message to a receiving party computer system; receiving the connection request message at the receiving party computer system; transmitting the SYN handshake packet to initiate a 3-way handshake for a TCP/IP connection from the initiating party computer to the receiving party computer; opening, upon receipt of the connection request message and the handshake packet, a TCP connection at the receiving party computer system for the initiating party computer system; and communicating between the initiating and receiving party computer systems using TCP communication packets in order for the

Art Unit: 2618

system to allow the client/server to offload TCP/IP related processing with the peer network destination/server across the internet for acceleration TCP/IP connection between clients, as taught by Borella et al..

Regarding claim 46, Pettey further teaches the communication connection system of claim 44, wherein the receiving device is further adapted to evaluate the connection request message prior to opening the TCP connection at the receiving device for the initiating device (paragraphs 121, 123, see figures 12 and 13).

Regarding claim 47, Pettey further teaches communication system of claim 46, wherein evaluating the connection request message includes authenticating data within the connection request message (paragraph 107, 123, see figure 12).

Regarding claim 52, Pettey further teaches communication connection system of claim 50, wherein the receiving device is further adapted to evaluate the connection request message prior to opening the TCP connection at the receiving device for the initiating device (paragraphs 121,123, see figures 12 and 13).

Regarding claim 53, Pettey further teaches the communication connection system of claim 52, wherein evaluating the connection request message includes authenticating data within the connection request message (paragraph 107, 123, see

Art Unit: 2618

figure 12).

**6.** Claims 36,37,48,49,54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pettey et al. (PGPUB-No: 2003/0014544) in view of Borella et al. (U.S. Patent 6,269,099) in view Park et al. (U.S. Pub. #2002/0073322).

Regarding claims 36,37,48,49,54 and 55, the combination of Pettey et al. and Borella et al. discloses a method/system as discussed supra in claims 31,34,44,46 50 and 52 above. Pettey et al. differs from claims 36,37,48,49,54 and 55 in that they do not disclose evaluating the connection request message includes authenticating the initiating party computer system and negotiating an encryption key during evaluation. Park teaches evaluating the connection request message includes authenticating the initiating party computer system (paragraph 14, lines 1-7, paragraph 15, line 1-7, paragraph 18, lines 6-14, paragraph 20, lines 8-15 ) and negotiating an encryption key during evaluation (paragraphs 15, 23, see figure 3). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of the combination of Pettey et al. and Borella et al. with evaluating the connection request message includes authenticating the initiating party computer system and negotiating an encryption key during evaluation in order for the system check the client/server to see if they have authority to access the destination server for services between clients, as taught by Park et al..

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Battin et al. (U.S. Patent 7,165,112) discloses a data communications connection using the Transmission Control Protocol (TCP) comprising the steps of: prior to the transmission of a SYN handshake packet to initiate a 3-way handshake for a TCP/IP connection, an initiating party computer system sending a connection request message to a receiving party computer system (fig. 3 and col. 8 lines 1-28).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Keith T. Ferguson whose telephone number is (571) 272-7865. The examiner can normally be reached on 6:30am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Maung Nay can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2618

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Keith T. Ferguson/  
Primary Examiner, Art Unit 2618  
March 26, 2010